

HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 4

FISHERIES

PART I MARINE LIFE CONSERVATION DISTRICTS

CHAPTER 38

WAIOPAE TIDEPOOLS

MARINE LIFE CONSERVATION DISTRICT, HAWAII

- §13-38-1 Statements of intention
- §13-38-2 Definitions
- §13-38-3 Prohibited activities
- §13-38-4 Exceptions; permits
- §13-38-5 Penalties

§13-38-1 Statements of intention. It is the department's intention to establish this marine life conservation district for the purposes of protecting, conserving, and improving the unique marine resources found within its boundaries. The department recognizes traditional and customary rights with regards to the wise and sustained use of these marine resources for subsistence, cultural, and religious practices, subject to the department's authority to manage these marine resources to prevent their overuse. The department further intends to review, within five years of the effective date of these rules, how effective these rules were in achieving the above stated purposes.
[Eff JUN 16 2003] (Auth: HRS §§190-2, 190-3) (Imp: HRS §190-2, 190-3)

§13-38-2 Definitions. As used in this chapter unless otherwise provided:

"Commercial activities" means any action that involves the taking of marine life for compensation, usually money, or any action, service, or goods that are provided, in exchange for compensation, usually money, regardless of if the exchange occurs inside or outside of the marine life conservation district.

"District" means the Waiopae Tidepools marine life conservation district.

"Marine life" means any type or species of saltwater fish, shellfish, mollusks, crustaceans, coral, or other marine animals, including any part, product, egg, or offspring thereof; or seaweeds or other marine plants, including any part, product, seed, or root thereof.

"Take" means to fish for, catch, capture, or harvest, or to attempt to fish for, catch, capture, or harvest, aquatic life. The use of any gear, equipment, tool, or any means to fish for, catch, capture, or harvest, or to attempt to fish for, catch, capture, or harvest, aquatic life by any person who is in the water, or in a vessel on the water, or on or about the shore where aquatic life can be fished for, caught, captured, or harvested, shall be construed as taking.

"Waiopae tidepools marine life conservation district" means that portion of the submerged lands and overlying waters of the area known as the Waiopae tidepools beginning at the high water mark at the shoreline and those overlaying waters and submerged lands depicted in the "Map of the Waiopae Tidepools Marine Life Conservation District, Hawaii" at the end of this chapter. [Eff JUN 16 2003] (Auth: HRS §§190-2, 190-3) (Imp: HRS §190-2, 190-3)

§13-38-3 Prohibited activities. No person shall engage in the following activities in the district:

- (1) Take, injure, kill, possess, or remove any marine life;
- (2) Take, alter, deface, destroy, possess, or remove any sand, coral, rock, or other geological feature, or specimen;
- (3) Anchor or moor any vessel; and
- (4) Conduct commercial activities, such as, but not limited to, commercial tours, dive groups, sightseeing tours, hikes, or guided services. [Eff JUN 16 2003] (Auth: HRS §§190-2, 190-3, 190-4.5) (Imp: HRS §190-2, 190-3, 190-4.5)

§13-38-4 Exceptions; permits. (a) The department may issue permits to engage in activities prohibited by section 13-38-3 and as may be otherwise prohibited by law, provided that:

- (1) The department may impose terms and conditions it deems necessary to carry out the purpose of this chapter, including requiring a report or reports of any marine life taken from the area;
- (2) The permits may be issued for scientific, educational, propagation, cultural, or management purposes;
- (3) The board may revoke any permit for any infraction of the terms and conditions of the permit; and
- (4) A person whose permit was revoked shall not be eligible to apply for another permit until the expiration of one year from the date of revocation.

(b) The department may issue the permit for a limited duration subject to the provisions of this section, but such duration shall not exceed one year from the date of issuance. The issuance of a permit shall not constitute a vested right to receive future or additional permits.

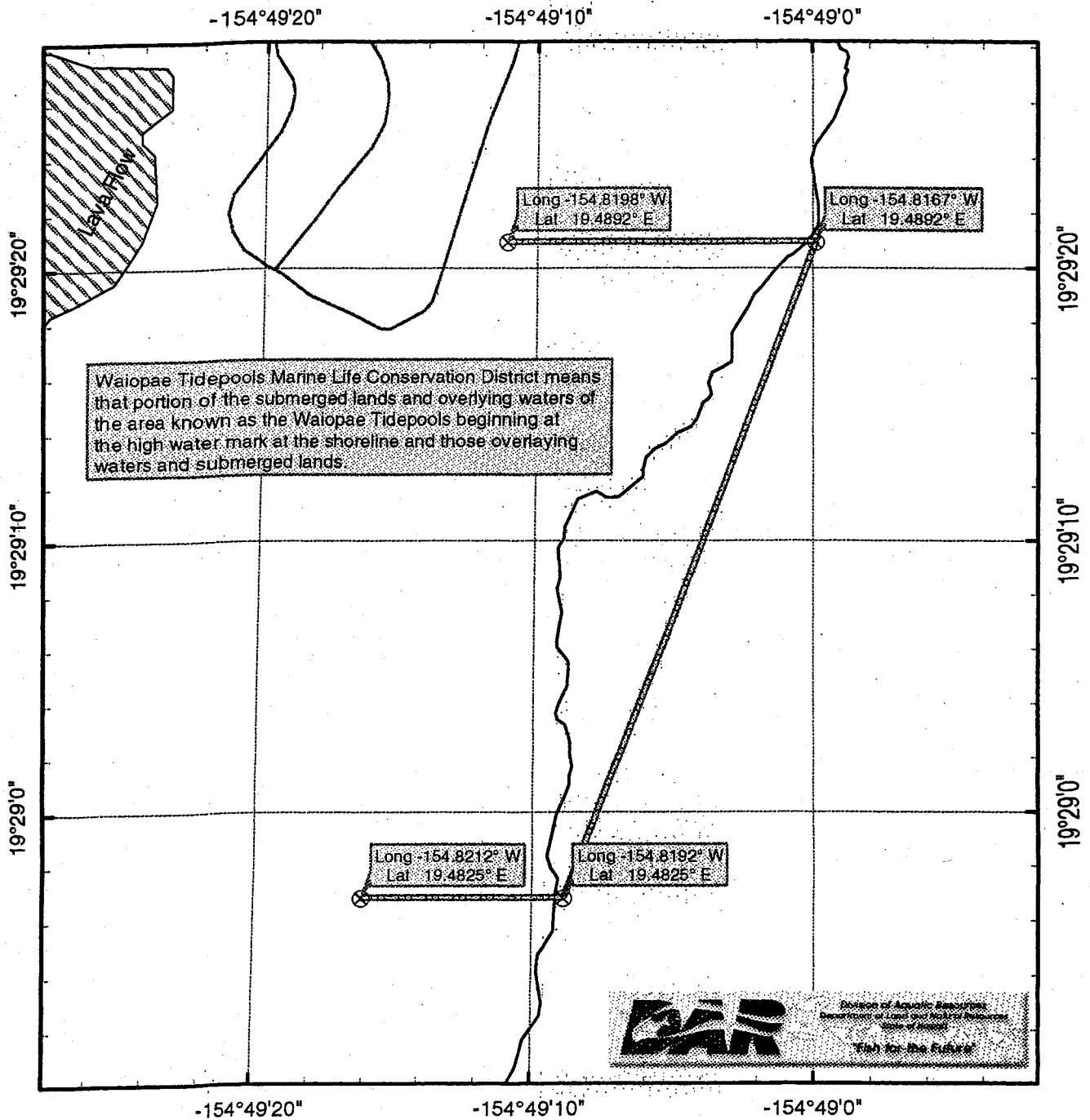
(c) The permits are non-transferable, unless otherwise allowed by the department.

(d) If the department determines that the protection and conservation of the aquatic life in the area requires the cessation of all or certain activities allowed under the permits, upon notification to the permit holders of this determination by any reasonable means, the permits shall automatically expire on a date provided in the notification.

(e) There is no right to a renewal or re-issuance of a permit. When reviewing an application for a permit, the department shall consider whether the applicant has previously violated or not complied with any term or condition of a permit and may deny the application on this basis. [Eff JUN 16 2003] (Auth: HRS §§190-2, 190-3, 190-4) (Imp: HRS §§190-2, 190-3, 190-4)

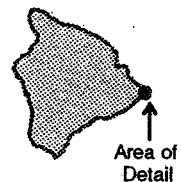
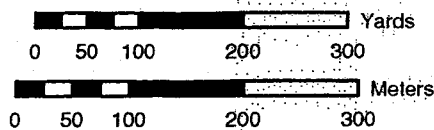
§13-38-5 Penalties. A person violating the provisions of this chapter or the terms and conditions of any permit issued as provided by this chapter, shall be guilty of a petty misdemeanor, subject to administrative penalties, and punished as provided by law. [Eff JUN 16 2003] (Auth: HRS §§187A-12.5; 190-2, 190-3, 190-5) (Imp: HRS §§187A-12.5, 190-5)

Waipae Tidepools Marine Life Conservation District, Hawaii



 Waipae Tidepools Marine Life Conservation District Boundary

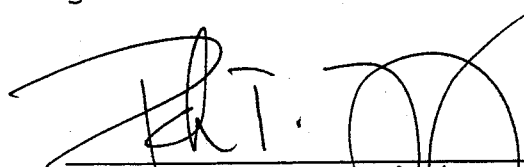
Data from Hawaii DAR and State GIS
Map by K. Kerr Feb. 20, 2002
Geographic Projection: NAD83



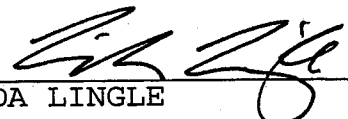
DEPARTMENT OF LAND AND NATURAL RESOURCES

Chapter 38, title 13, Hawaii Administrative Rules, on the Summary Page dated March 14, 2003, was adopted on March 14, 2003, following a public hearing held at Pahoa High School, Hawaii on January 28, 2003, after public notice was given in the Sunday editions of the Honolulu Advertiser, West Hawaii Today, and Hawaii Tribune-Herald on December 15, 2002.

The adoption of Chapter 13-38 shall take effect ten days after filing with the Office of the Lieutenant Governor.


PETER T. YOUNG, Chairperson
Board of Land and Natural Resources

APPROVED:


LINDA LINGLE
Governor
State of Hawaii

Dated: 6/5/03

APPROVED AS TO FORM:


Deputy Attorney General

JUN 05 2003

Filed

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LIEUTENANT GOVERNOR
OFFICE